

**Administrative Investigations
181-CCFS-C16 / Version 3
Effective Date Not Assigned**

SECTION I. ADMINISTRATIVE DATA

All Courses Including This Lesson	<u>Course Number</u>	<u>Version</u>	<u>Course Title</u>																				
	None																						
Task(s) Taught(*) or Supported	<u>Task Number</u>	<u>Task Title</u>																					
	None																						
Reinforced Task(s)	<u>Task Number</u>	<u>Task Title</u>																					
	None																						
Knowledge	<u>Knowledge Id</u>	<u>Title</u>	<u>Taught</u> <u>Required</u>																				
	None																						
Skill	<u>Skill Id</u>	<u>Title</u>	<u>Taught</u> <u>Required</u>																				
	None																						
Administrative/ Academic Hours	<p>The administrative/academic hours required to teach this lesson are as follows:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left;"><u>Academic</u></th> <th colspan="3" style="text-align: left;"><u>Resident Hours / Methods</u></th> </tr> <tr> <td>No</td> <td>2 hrs</td> <td>35 mins</td> <td>Briefing</td> </tr> <tr> <td>Yes</td> <td>0 hrs</td> <td>0 mins</td> <td>Test Review</td> </tr> <tr> <td>Yes</td> <td>0 hrs</td> <td>0 mins</td> <td>Test</td> </tr> <tr> <td colspan="4" style="border-top: 1px solid black; padding-top: 5px;"> <div style="display: flex; justify-content: space-between;"> Total Hours: 2 hrs 35 mins </div> </td> </tr> </table>			<u>Academic</u>	<u>Resident Hours / Methods</u>			No	2 hrs	35 mins	Briefing	Yes	0 hrs	0 mins	Test Review	Yes	0 hrs	0 mins	Test	<div style="display: flex; justify-content: space-between;"> Total Hours: 2 hrs 35 mins </div>			
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Test Lesson Number	<u>Hours</u>	<u>Lesson Number</u>																					
	None																						
Prerequisite Lesson(s)	<u>Lesson Number</u>	<u>Lesson Title</u>																					
	None																						
Training Material Classification	Security Level: This course/lesson will present information that has a Security Classification of: U - Unclassified.																						
Foreign Disclosure Restrictions	FD5. This product/publication has been reviewed by the training/educational developers in coordination with the The Judge Advocate General's Legal Center and School, Charlottesville, VA 22803 FD authority. This product is releasable to students from all requesting foreign countries without restrictions.																						

References

<u>Number</u>	<u>Title</u>	<u>Date</u>	<u>Additional Information</u>
AR 15-6	PROCEDURES FOR INVESTIGATING OFFICERS AND BOARDS OF OFFICERS	02 Oct 2006	
AR 385-10	THE ARMY SAFETY PROGRAM (*RAR 004, 10/04/2011)	23 Aug 2007	
AR 600-34	FATAL TRAINING/OPERATIONAL ACCIDENT PRESENTATIONS TO THE NEXT OF KIN	02 Jan 2003	
AR 600-8-4	Line of Duty Policy Procedures and Investigations	04 Sep 2008	

Student Study Assignment

None

Instructor Requirements

Absent exceptional circumstances, this lesson should be taught by a judge advocate. MOS 27A judge advocate.

Additional Support Personnel Requirements

<u>Name</u>	<u>Student Ratio</u>	<u>Qty</u>	<u>Man Hours</u>
None			

Equipment Required for Instruction

<u>ID - Name</u>	<u>Student Ratio</u>	<u>Instructor Ratio</u>	<u>Spt</u>	<u>Qty</u>	<u>Exp</u>
None					

Materials Required*Instructor Materials:*

None

Student Materials:

None

Classroom, Training Area, and Range Requirements

None

Ammunition Requirements

<u>DODIC - Name</u>	<u>Exp</u>	<u>Student Ratio</u>	<u>Instruct Ratio</u>	<u>Spt Qty</u>
None				

Instructional Guidance

NOTE: Before presenting this lesson, instructors must thoroughly prepare by studying this lesson and identified reference material.

None

Proponent Lesson Plan Approvals

<u>Name</u>	<u>Rank</u>	<u>Position</u>	<u>Date</u>
None			NO DATA

SECTION II. INTRODUCTION

Method of Instruction: Briefing
Instr Type(I:S Ratio/Qty): 27A(null:null/0)*
Time of Instruction: 10 mins
Instructional Strategy: Lecture
Note: Marked as (*) is derived from the parent learning object

Motivator

Note Show Slide 1

Administrative Investigations

Note: Show Slide 2

Administrative Investigations

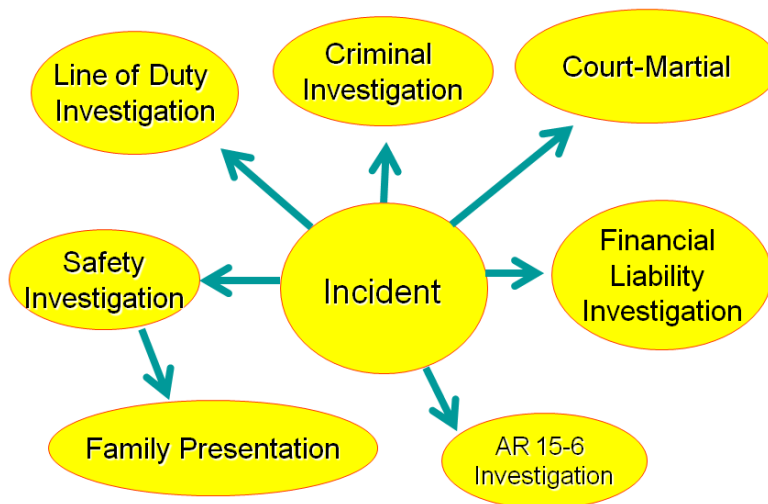
Commanders have the
inherent authority to investigate
any matter under their responsibility, unless
otherwise prohibited or limited, if undertaken for
the purpose of furthering the good order and
discipline of their command

Key to
Success

Do them
Do them right
Do them right away

- In the military a commander or supervisor's authority to investigate is very broad. Administrative investigations refer to all of the non-criminal investigations (those not conducted by a law enforcement organization, i.e., CID, MPI) that commanders and leaders conduct. These are investigations either mandated by an Army regulation or DoD Directive, or directed by a commander or supervisor.
- There does not have to be some sort of affirmative authorization to investigate a matter. There are, of course, regulations that require certain investigations and also some regulations that impose restrictions and limits on what a commander can investigate but generally, commanders can investigate any matter under their responsibility, unless otherwise prohibited or limited, if undertaken for the purpose of furthering the good order and discipline of their command.
- The keys to success when the need for an investigation arises are to do them, do them right, and do them right away. Failure to do them raises allegations of reluctance to investigate ourselves, failure to do them right raises allegations of cover-up or incompetence; and failure to do them right away raises issues of accuracy.

Note: show Slide 3



- In the military, as in the civilian world, an event has the potential to give rise to any number of follow-on processes.
- Included within these processes are investigations.
- For example: A traffic accident occurs and involves a drunk driver:
 - Line of Duty Investigation: If Soldier dies or is injured, a LOD investigation will ensue to determine benefits.
 - Criminal Investigation: CID may investigate it as a potential crime.
 - Court-Martial: The driver may face an Article 32 Investigation after preferral of Court-Martial charges.
 - Financial Liability Investigation of Property Loss: If a government vehicle is involved, there will be a FLIPL to determine liability.
 - AR 15-6 Investigation: The command or Army regulation may require that a legal investigation IAW AR 15-6 be conducted.
 - Safety Investigation: Is required when a reportable Army accident occurs.
 - Fatal Training or Operational Accident Family Presentation: If the accident occurred in the course of training and there is a fatality, then an in-person briefing for the Soldier's next of kin may be required.

**Terminal
Learning
Objective**

NOTE. Inform the students of the following Terminal Learning Objective requirements.

At the completion of this lesson, you [the student] will:

Action:	Administrative Investigations
Conditions:	In a classroom environment, you must understand the procedures for Administrative Investigations.
Standards:	Understand all procedures of Administrative Investigations in accordance

	with AR 15-6, AR 385-10, AR 600-8-4 and AR 600-34
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Safety Requirements

None.

Risk Assessment Level

None

Environmental Considerations

NOTE: Instructor should conduct a Risk Assessment to include Environmental Considerations IAW FM 3-34.5, Environmental Considerations {MCRP 4-11B}, and ensure students are briefed on hazards and control measures.

NOTE: It is the responsibility of all Soldiers and DA civilians to protect the environment from damage.

Evaluation

NOTE: Describe how the student must demonstrate the accomplishment of the TLO. Refer student to the Student Evaluation Plan.

Instructional Lead-in

Note: Show Slide 4

Agenda/References

- AR 15-6, *Procedure for Investigating Officers and Boards of Officers*, 2 October 2006
- AR 385-10, *The Army Safety Program*, 23 August 2007 (RAR 14 June 2010)
- AR 600-8-4, *Line of Duty Policy, Procedures, and Investigations*, 4 September 2008
- AR 600-34, *Fatal Training/Operational Accident Presentations to the Next of Kin*, 2 January 2003

- The purpose of this presentation is to provide basic information regarding the most common Army Administrative Investigations. These are AR 15-6 investigations, AR 385-10 safety investigations, and AR 600-8-1 line of duty investigations.

"ALWAYS call your judge advocate when you have questions or concerns. Train your staff to call your judge advocate.

Often, your judge advocate will be willing to come and train your staff."

SECTION III. PRESENTATION

NOTE: Inform the students of the Enabling Learning Objective requirements.

A. ENABLING LEARNING OBJECTIVE

ACTION:	Army Regulation 15-6
CONDITIONS:	In a classroom environment, Understand the procedures of Administrative Investigations IAW AR 15-6
STANDARDS:	Understand the procedures of Administrative Investigations IAW AR 15-6

ELO A - LSA 1. Learning Step / Activity ELO A - LSA 1. Army Regulation 15-6

Method of Instruction: Briefing

Instr Type(I:S Ratio/Qty): 27A(/0)

Time of Instruction: 0 hrs 15 mins

Instructional Strategy: Lecture

Media Type: PowerPoint Presentation

Security Classification: This course/lesson will present information that has a
Security Classification of: U - Unclassified.

Note: Show Slide 5

Army Regulation 15-6

- Provides guidance on the conduct of investigations
- General and specific application to various investigations
- Use AR 15-6 when:
 - Whenever an appointing authority needs a complete investigative report containing facts and recommendations
 - When regulations require it

• AR 15-6 is the Army's primary guide for conducting investigations. It does not, however, mandate any particular investigation be conducted.

- AR 15-6 establishes procedures for investigations and boards of officers not specifically authorized by any other directive. AR 15-6 or any part of it may be made applicable to investigations or boards that are authorized by another directive, but only by specific provision in that directive or in the memorandum of appointment. In case of a conflict between the provisions of AR 15-6, when made applicable, and the provisions of a specific directive authorizing the investigation or board, the specific regulation would govern.
- Even when not specifically made applicable, AR 15-6 may be used as a general guide for investigations or boards authorized by another directive, but in that case, its provisions are not mandatory (i.e. AR 385-10, The Army Safety Program, authorizes safety accident investigations but does not incorporate AR 15-6.)
- Examples of Regulations that require an AR 15-6 investigation: AR 600-8-1 (hostile death and suspected friendly fire death); AR 735-5 (loss of controlled items (night vision goggles, weapons)); AR 635-200 (active duty enlisted administrative separations (formal AR 15-6); AR 600-8-24 (Boards of Inquiry for involuntary officer separations (formal 15-6).

Note: Show Slide 6

AR 15-6 Investigation

- A Commander's information tool to collect facts, make findings, and obtain recommendations
- Two Types
 - Formal
 - Informal
 - More flexible, less time and resource intensive, simple, preferred over formal
- An AR 15-6 investigation is used to ascertain facts and report them to the appropriate authority.

- There are two types of AR 15-6 investigations—formal and informal.
- Formal investigations, or boards, are used to provide a hearing for a named respondent, for example, an enlisted soldier administrative separation board. A formal board affords significant rights and entails detailed procedures.
- Some of these rights include: notice, time to prepare, right to be present, right to counsel, ability to challenge members, object to evidence, and present evidence, and make argument.
- As a result, it is more cumbersome and resource intensive than an informal investigation.
- Formal boards are rarely, if ever, required in any context other than administrative separation boards and Flying Evaluation Boards (FEB).
- Informal investigations are far more common. They are used to investigate many different types of incidents from friendly fire in a combat zone to improper use of government cell phones in a garrison environment. They are much more flexible than formal boards. No formal hearings, usually just one investigating officer, statements taken and evidence obtained informally, no named respondent so the individual's rights at a formal board not involved.
- AR 15-6 expresses a preference for informal investigations. While utilization of formal boards is never prohibited when a matter is under investigation, there is little reason to conduct a formal investigation if it is not required.

Note: Show Slide 7

Who May Initiate a AR 15-6 Investigation: The Appointing Authority

- **Formal**
 - GCMCA/SPCMCA
 - Any general officer
 - GS-14 (or above) agency head or division chief
- **Informal**
 - Anyone who can appoint a formal
 - Any commander
 - Principal staff officer in the grade of major or above

- The individual who directs the investigation is commonly referred to as the appointing authority, approving authority, or convening authority. AR 15-6 refers to the individual as the appointing authority.
- Some regulations require a certain level of officer to appoint a 15-6. (AR 600-8-1, requires GCMCA to appoint investigation into friendly fire fatality cases).
- Conflicts when there are two apparent appointing authorities that have an interest in a matter—a single investigation should be conducted. When agreement cannot be made, first superior commander will resolve issue.

Note: Show Slide 8

Special Situations

- Only a **GCMCA** may appoint an AR 15-6 if:
 - Property damage of \$1M or more;
 - Loss or destruction of Army aircraft or missile;
 - Injury or illness likely to result in death or permanent total disability;
 - Death of one or more persons; or
 - Death of one or more persons by friendly fire
- Check local policies and regulation supplements for additional guidance

There are some situations where appointing authority is limited to certain individual positions. Only a general court-martial convening authority (GCMCA) can appoint an AR 15-6 investigation if: Property damage of \$1M or more; Loss or destruction of Army aircraft or missile; Injury or illness likely to result in death or permanent total disability; Death of one or more persons; or Death of one or more persons by fratricide/friendly fire. The fact that appointing authorities for investigations into deaths must always be a GCMCA (except for hostile fire deaths) should not be confused for a requirement to do a 15-6 into every death. There are deaths that do not necessarily require a 15-6, such as when a Soldier dies of illness. However, any 15-6 into a death, whether required by regulation or conducted as a matter of discretion, must be appointed by a

GCMCA (again, subject to the exception of hostile fire deaths).

Note: Show Slide 9

Special Situations: Hostile Death

- All hostile deaths must be investigated (AR 600-8-1)
 - Appointed by GCMCA but authority can be delegated to SPCMCA in writing (AR 15-6)
 - Investigation must be forwarded to Casualty and Mortuary Affairs Operation Center (CMAOC) within 60 days of initiation (MILPER Message 07-233)
 - Field grade officer must review all initial casualty reports (AR 600-8-1/MILPER Message 07-233)
 - Units and CID must report all death investigations to the CMAOC (AR 600-8-1)
-
- Another special situation worth mentioning is hostile death investigations.
 - AR 600-8-1 requires an AR 15-6 investigation be conducted into all hostile deaths. Hostile deaths are those resulting from a terrorist activity – such as by an IED or VBIED - or casualties caused “in action” – such as a direct fire engagement with an opposing force.
 - Appropriate appointing/approval authority for hostile death investigations clarified in AR 15-6. Per AR 15-6, investigations involving death must be convened by GCMCA. However, AR 15-6 allows the authority to be delegated to a SPCMCA for hostile death cases only. If, however, during an investigation convened pursuant to this delegation, evidence of friendly fire is discovered, investigation must stop and the friendly fire procedures must be initiated. A new AR 15-6 investigation must be convened. The same IO can be appointed as long as he/she is still best qualified for the duty as determined by the new appointing authority.
 - The date the investigation was initiated must be reported to the CMAOC using the Defense Casualty Information Processing System (DCIPS).

- Initial casualty reports must now be reviewed by a field grade officer, typically the Bn Cdr.
- NOTE: Hostile Death Investigations. Not a pro forma investigation though the facts may seem rather obvious. The family will get a copy (offered IAW statute). IOs must interview all witnesses, check procedures/SOPs to ensure they were followed or whether they can be improved, check decisions that were made (AAR type inquiry) (i.e., ground vice air MEDEVAC or battle drill execution), autopsy/medical reports, sensitive item accountability, check for maps, diagrams, photos, film (personal or official).

Note: Show Slide 10

Special Situations: Suicide

- All suicides and suspected suicides must be investigated (AR 600-63)
- Appointed by GCMCA (AR 15-6)
- Investigation must conform to guidance in Army Directive 2010-01 (26 Mar 10)
 - Coordination with CID, medical examiner, mental health provider, Line of Duty officer
 - Lines of inquiry
 - Completed investigation must provide recommendations to prevent future suicides
- The Army is engaging in a massive effort to prevent suicides. Suicide investigations play a big part in this prevention effort.
- AR 600-63, Army Health Promotion (RAR 7 Sep 10) requires an AR 15-6 investigation be conducted into all suicides and suspected suicides (including suicides of Army Reserve or National Guard Soldiers even if not on active duty).
- Unlike hostile death investigations, AR 15-6 appointing authority may not be delegated below GCMCA level.

- Army Directive 2010-01, Conduct of AR 15-6 Investigations Into Suspected Suicides and Requirements for Suicide Incident Family Briefs, was issued on 26 March 2010, and contains detailed guidance for conduct of suicide investigations.
- At the beginning of the investigation, the IO must obtain factual information regarding the suicide or suspected suicide from CID, including preliminary reports. IO should also coordinate with the behavioral or other health provider, as well as with the Office of the Armed Forces Medical Examiner, when applicable, to obtain information related to prescription drugs, autopsy report, toxicology report, etc.
- At the end of the investigation, the IO must contact the CID office and the line of duty investigating officer (if applicable) to resolve any discrepancies in factual information and to make sure no key matters of evidence (such as toxicology, autopsy, or civilian police reports) remain pending that could have a bearing on the findings and recommendations.
- The directive sets forth lines of inquiry—communication of suicidal intent, information about personality and lifestyle, and military history—along with extensive example questions, to help guide the IO in conducting the investigation.
- The completed investigation should provide clear, relevant, and practical recommendation(s) to prevent future suicides.

Note: Show Slide 11

Special Situations: Friendly Fire

- Friendly Fire (Vice Chief of Staff May 2007 Guidance)
 - Emphasis and Additional Training on Friendly Fire Fatality Procedures
- Friendly Fire Injury (MILPER Message 07-236)
 - Friendly fire injuries must be reported to CID and the Combat Readiness/Safety Center
 - Friendly fire injuries must be investigated the same as friendly fire fatalities

- VCSA issued guidance in May 2007, after publication of the DOD IG Tillman investigation, that required additional training and emphasis be placed on friendly fire reporting and investigations. The DOD IG report revealed that leaders were not aware of existing procedures. It is critical that all leaders understand these procedures.

- MILPER Message 07-236 reemphasizes the requirements of DoDI 6055.07 and AR 600-8-1 that friendly fire must be reported and investigated.

Check on Learning: None.

Review Summary: None.

CHECK ON LEARNING (ELO A): None.

REVIEW SUMMARY(ELO A): None.

B. ENABLING LEARNING OBJECTIVE

ACTION:	Friendly Fire
CONDITIONS:	None.
STANDARDS:	None.

ELO B - LSA 1. Learning Step / Activity ELO B - LSA 1. Friendly Fire

Method of Instruction: Briefing
Instr Type(I:S Ratio/Qty): 27A(/0)
Time of Instruction: 0 hrs 15 mins
Instructional Strategy: Lecture
Media Type: PowerPoint Presentation
Security Classification: This course/lesson will present information that has a
Security Classification of: U - Unclassified.

Note: Show Slide 12

Friendly Fire

DODI 6055.07: A circumstance in which members of a U.S. or friendly military force are mistakenly or accidentally **killed or injured** in action by U.S. or friendly forces actively engaged with an enemy or who are directing fire at a hostile force or what is thought to be a hostile force

Units must report and investigate all suspected friendly fire incidents as soon as evidence leads personnel on the ground to believe that friendly fire may be involved

- Here is the official DoD definition of friendly fire. Note that it includes both injuries and fatalities. It does not include incidents where friendly forces mistakenly engage each other, but no one is actually injured.
- The policy: Units must report and investigate all suspected friendly fire incidents as soon as evidence leads personnel on the ground to believe that friendly fire may be involved. Note that only a suspicion is required. Do not wait until the investigation is complete or under way to report the incident. This prevents improper notification of the family.

Note: Show Slide 13

Friendly Fire Procedures

- **Provide immediate telephonic notice** through the Casualty Assistance Center to the Army Casualty and Mortuary Affairs Operation Center (CMAOC)
 - **Generate an initial (INIT) casualty report** through command channels to combatant commander
 - **Initiate AR 15-6 investigation**
 - Appointed by Combatant Commander or his/her designee
 - Normally delegated to the GCMCA
 - Must be approved by Combatant Commander
-
- Note that there are two requirements – reporting and investigating.
 - **REPORTING REQUIREMENTS:**
 - Telephonic notice to CMAOC
 - Initial casualty reports
 - Supplemental reports
 - Final investigation to combatant commander
 - **INVESTIGATION REQUIREMENTS:**
 - AR 15-6 (or other service legal investigation)
 - Safety investigation
 - CID criminal investigation (if appropriate)
-
- **Provide immediate telephonic notice** through combatant Casualty Assistance Center (CAC) to the Army Casualty and Mortuary Affairs Operation Center (CMAOC) Notification Cell. The telephonic heads up to the Casualty and Mortuary Affairs Operation Center is supposed to be provided ASAP before any written report is provided. This is required as soon as evidence on the ground suspects a FF mishap.
 - **Generate an initial (INIT) casualty report** with detailed circumstances IAW AR 600-8-1. This is established procedure. Emphasis is that the report must include any suspicion of friendly fire.
 - **Provide casualty report** through command channels to combatant commander. The combatant commander is notified of all friendly fire incidents.
 - **Initiate AR 15-6 investigation** Must be appointed by GCMCA (while DoDI 6055.07 requires the combatant commander, or his/her designee to convene the “legal

investigations" (AR 15-6), Army regulation only requires a GCMCA). In practice, the combatant commander typically delegates appointing authority to a lower GCMCA. The report, however, must be reviewed and approved by the combatant commander.

Note: Show Slide 14

Friendly Fire Procedures (continued)

- **Contact the Combat Readiness/Safety Center** and initiate safety investigation - *subject to Combatant Commander discretion*
- **Contact the local CID Detachment**
- **Submit supplemental (SUPP) casualty report** when there is a substantial change to the initial report
- Once approved by the Combatant Commander, **submit AR 15-6 proceedings to CMAOC**
- **Coordinate with CMAOC** to provide a presentation to the family for fatality cases

• **Contact the Combat Readiness Center** and initiate safety investigation. Combat Readiness/Safety Center will normally conduct centralized accident investigation (members come primarily from Fort Rucker) in Class A friendly fire incidents. DODI 6055.07 states safety investigation conducted at discretion of combatant commander. US Army regulations require safety investigation.

• **Contact Local CID.** They can assist with forensics or conduct criminal investigation if criminal conduct suspected or substantiated.

• **Submit supplemental (SUPP) casualty report** when there is a substantial change to the initial report, such as when the inflicting force is identified.

• Once approved by the Combatant Commander, submit AR 15-6 proceedings to CMAOC

• **Coordinate with CMAOC** to provide a presentation to the family for fatality cases

Check on Learning:

None.

Review Summary: None.

CHECK ON LEARNING (ELO B): None.

REVIEW SUMMARY(ELO B): None.

C. ENABLING LEARNING OBJECTIVE

ACTION:	How to Appoint
CONDITIONS:	In a classroom environment, Learn and understand the Appointment Memorandum
STANDARDS:	Understand the Appointment Memorandum process IAW the proper regulations

ELO C - LSA 1. Learning Step / Activity ELO C - LSA 1. The Appointment Memorandum

Method of Instruction: Briefing
Instr Type(I:S Ratio/Qty): 27A(/0)
Time of Instruction: 0 hrs 5 mins
Instructional Strategy: Lecture
Media Type: PowerPoint Presentation
Security Classification: This course/lesson will present information that has a
Security Classification of: U - Unclassified.

Note: Show Slide 15

How to Appoint: The Appointment Memorandum

- Written appointment is preferred
- Describe the facts as they are known at the time
- Be specific in what the investigating officer is to accomplish
- Give adequate guidance and special instructions

- When appointing an investigation, a written appointment is preferred.

- Judge advocates most often draft the memorandum of appointment for the appointing authority. If not, they should be providing guidance for whomever is drafting the document. It is important that all known facts are included or attached to the memorandum and that specific guidance is provided to the investigating officer. The memorandum should provide enough detailed guidance so the investigating officer is clear on what he or she is to accomplish.

- Special instructions can include the requirement to provide an unclassified version of the report of investigation to facilitate its release to the media, Congress, or pursuant to a Freedom of Information Act request, or the preparation of periodic updates during the investigation so the command remains informed.

Check on Learning: None.

Review Summary: None.

ELO C - LSA 2. Learning Step / Activity ELO C - LSA 2. The AR 15-6 Investigating Officer

Method of Instruction: Briefing

Instr Type(I:S Ratio/Qty): 27A(/0)

Time of Instruction: 0 hrs 5 mins

Instructional Strategy: Lecture

Media Type: PowerPoint Presentation

Security Classification: This course/lesson will present information that has a Security Classification of: U - Unclassified.

Note: Show Slide 16

Whom to Appoint: The AR 15-6 Investigating Officer

- **Grade**
 - Commissioned/warrant officer
 - GS-13 and above
- **Senior to person** under investigation
- **Best qualified** by reason of education, training, experience, length of service, and temperament

- The appointment of the AR 15-6 officer should not usually be a duty roster type appointment. Only the best officers and GS 13 and higher civilian employees should be conducting these investigations.
- Special expertise should be considered where appropriate. For example, the investigating officer conducting a legal investigation of an aviation accident should be a pilot.

Check on Learning: None.

Review Summary: None.

CHECK ON LEARNING (ELO C): None.

REVIEW SUMMARY(ELO C): None.

D. ENABLING LEARNING OBJECTIVE

ACTION:	Conducting the Investigation
CONDITIONS:	In a classroom environment learn how to conduct the Investigation
STANDARDS:	You must comprehend how to conduct an Investigation

ELO D - LSA 1. Learning Step / Activity ELO D - LSA 1. Conducting the Investigation

Method of Instruction: Briefing
 Instr Type(I:S Ratio/Qty): 27A(/0)
 Time of Instruction: 0 hrs 5 mins
 Instructional Strategy: Lecture
 Media Type: PowerPoint Presentation
 Security Classification: This course/lesson will present information that has a
 Security Classification of: U - Unclassified.

Note: Show Slide 17

Conducting the Investigation

- Mandatory legal brief
- Must be thorough and impartial
- Using an investigative plan will help
 - Who, what, where, when, why, and how
- Rules of evidence generally do not apply – **evidence must be relevant and material**
 - Limits: Privileged communications, evidence of polygraph only with consent of subject, no involuntary admissions, no bad faith searches (formal proceedings)

• Prior to beginning their investigation, IOs are required to meet with a legal advisor. The legal advisor will advise the IO throughout the investigation.

• An investigative plan should assist the IO conduct the investigation. It allows the IO to focus on the purpose of the investigation. Helps the IO gather the right evidence, talk to the right people, in the right sequence. The legal advisor should assist the IO with this.

• Generally, the IO is not bound by the Military Rules of Evidence (MRE). Anything that in the minds of reasonable persons is relevant and material to an issue may be accepted as evidence. Weight of evidence is as the circumstances warrant.

• Three matters are worth mentioning: 1. The MRE provisions regarding privileged communications do apply. MRE 502 (lawyer), MRE 503 (clergy), and MRE 504 (spouse) apply. Therefore, evidence obtained in violation of these provisions may not be considered. 2. The subject of a polygraph examination must consent regarding the results, taking, or refusal to take the test before it may be considered by the IO. 3. No military or civilian witness can be compelled to incriminate themselves. IOs must be made aware of Article 31 UCMJ rights and 5th Amendment rights. Witnesses can be otherwise be ordered to testify or give a statement.

• Issues with evidence should be resolved by legal advisor or brought to approval authority attention in legal review.

Check on Learning: None.

Review Summary: None.

CHECK ON LEARNING (ELO D): None.

REVIEW SUMMARY(ELO D): None.

E. ENABLING LEARNING OBJECTIVE

ACTION:	Concluding the Investigation
CONDITIONS:	In a classroom environment learn how to conclude the Investigation
STANDARDS:	You must comprehend how to conclude an Investigation IAW the proper regulation

ELO E - LSA 1. Learning Step / Activity ELO E - LSA 1. Concluding the Investigation

Method of Instruction: Briefing

Instr Type(I:S Ratio/Qty): 27A(/0)

Time of Instruction: 0 hrs 5 mins

Instructional Strategy: Lecture

Media Type: PowerPoint Presentation

Security Classification: This course/lesson will present information that has a
Security Classification of: U - Unclassified.

Note: Show Slide 18

Concluding the Investigation

- Facts
 - Clear, concise, and readily deduced from the evidence in the record – should refer to a piece of evidence
- Findings
 - **Preponderance of the evidence** (more likely than not)
- Recommendations
 - Consistent with the findings

• Facts should refer back to the evidence collected.

• Findings must be based upon the facts collected. Weight of evidence must support

the conclusions. It is not determined by number of witnesses or volume of exhibits.
The IO must answer the questions the appointing authority asked in the appointment memorandum.

- Recommendations can be negative (no further action taken) or they can recommend severe adverse action. These should make sense and not be excessive

Check on Learning: None.

Review Summary: None.

CHECK ON LEARNING (ELO E): None.

REVIEW SUMMARY(ELO E): None.

F. ENABLING LEARNING OBJECTIVE

ACTION:	Legal Review
CONDITIONS:	In a classroom environment learn the Legal Review process
STANDARDS:	You must comprehend/understand the Legal Review process IAW the proper regulation

ELO F - LSA 1. Learning Step / Activity ELO F - LSA 1. Legal Review

Method of Instruction: Briefing

Instr Type(I:S Ratio/Qty): 27A(/0)

Time of Instruction: 0 hrs 5 mins

Instructional Strategy: Lecture

Media Type: PowerPoint Presentation

Security Classification: This course/lesson will present information that has a Security Classification of: U - Unclassified.

Note: Show Slide 19

Legal Review

- Required for
 - Serious/complex cases
 - When adverse action is contemplated
 - When the investigation is relied upon by higher HQ
- Determine
 - Whether the proceedings comply with legal requirements and the appointment memo
 - What effects any errors have
 - Whether sufficient evidence supports the findings
 - Whether the recommendations are consistent with the findings

• Legal reviews are required for serious or complex cases (such as death or serious bodily injury), when adverse action is contemplated based upon the investigation, or when the investigation will be sent to higher HQ. In practice, almost all AR 15-6 investigations will receive a legal review.

• All errors must be identified: Harmless errors are defects in the procedures or proceedings that don't have a material adverse effect on an individual's substantial rights. May still take final action. Some should be cured and some are legally sufficient just as they are, though all errors or defects should be noted in the legal review. Something that should be cured would be an appointing error with a formal board.

• Appointing errors are where an investigation is convened or directed by an official without the authority to do so. They are a nullity unless the commander with the authority to do so ratifies the error.

• Substantial errors are those that have a material adverse effect on an individual's substantial rights, such as a failure to meet requirements as to composition of the board or denial of a respondent's right to counsel. Usually with formal boards.

Check on Learning: None.

Review Summary: None.

CHECK ON LEARNING (ELO F): None.

REVIEW SUMMARY(ELO F): None.

G. ENABLING LEARNING OBJECTIVE

ACTION:	Appointing/Approving Authority Action
CONDITIONS:	In a classroom environment learn the Appointing / Approving Authority Action process
STANDARDS:	You must comprehend/ understand the Appointing/ Approving Authority Action IAW the proper regulation

ELO G - LSA 1. Learning Step / Activity ELO G - LSA 1. Appointing/Approving Authority Action

Method of Instruction: Briefing
Instr Type(I:S Ratio/Qty): 27A(/0)
Time of Instruction: 0 hrs 5 mins
Instructional Strategy: Lecture
Media Type: PowerPoint Presentation
Security Classification: This course/lesson will present information that has a Security Classification of: U - Unclassified.

Note: Show Slide 20

Appointing/Approving Authority Action

- Appointing/approving authority may
 - Approve as is
 - Disapprove
 - Return for additional investigation
 - Substitute findings and recommendations
- Recommendations
 - Treat just as findings, approving/disapproving them accordingly
 - Become final agency decision once approved and thus may be released under the Freedom of Information Act
- Corrective action

• The appointing/approving authority generally is not bound by the findings and recommendations (exceptions for some formal boards, i.e. separation boards that recommend retention.) However, the approving authority should not approve any

findings or recommendations with which he or she disagrees. This is because investigations, once approved, become final agency decisions subject to release under FOIA. Also, investigations used as a basis for adverse action against an individual would be given to that individual as a matter of due process. In either case, an approving authority could face awkward questions if he or she approves recommendations that are not implemented, or if subsequent command action appears to contradict the recommendations. Keep this in mind, and remember that the approving authority is free to line through any findings or recommendations with which he or she disagrees prior to approving the investigation. The approving authority may also add additional findings and recommendations, or substitute those already there.

- If adverse to individual, due process rights exist. Subject is given notice and a copy of the report of investigation. Subject has reasonable opportunity to respond. Commander must consider response, if submitted in a timely manner, before taking adverse action. If adverse action taken IAW a specific regulation, the regulation that affords more due process rights will be followed.

- Corrective action. Fix systematic problems, provide additional guidance, educate, new policy, etc.

Check on Learning: None.

Review Summary: None.

CHECK ON LEARNING (ELO G): None.

REVIEW SUMMARY(ELO G): None.

H. **ENABLING LEARNING OBJECTIVE**

ACTION:	Safety
CONDITIONS:	In a classroom environment learn about Safety Accident Investigations
STANDARDS:	You must comprehend/ understand Safety Accident Investigations IAW the AR 385-10

ELO H - LSA 1. Learning Step / Activity ELO H - LSA 1. Accident Investigations

Method of Instruction: Briefing

Instr Type(I:S Ratio/Qty): 27A(/0)

Time of Instruction: 0 hrs 10 mins

Instructional Strategy: Lecture

Media Type: PowerPoint Presentation

Security Classification: This course/lesson will present information that has a Security Classification of: U - Unclassified.

Note: Show Slide 21

AR 385-10 Safety Accident Investigations

- Function of safety accident investigation is to **prevent future accidents**, it cannot be used to take adverse action
- Anticipate multiple investigations into same incident, each serving specific purpose
 - Safety, AR 15-6, criminal, line of duty

Anticipate multiple investigations into an accident: Fatal motorcycle accident results in state police and CID joint criminal investigation. Chain of command must conduct a line of duty (AR 600-8-4) and a legal accident investigation (AR 385-10).

Note: Show Slide 22

Classes of Accidents

- **Class A:** Damage totaling \$2M or more; accidents involving aircraft; injury/occupational illness resulting in fatality or permanent total disability (includes friendly fire incidents)
- **Class B:** Damage between \$500k - \$2M; injury/occupational illness resulting in permanent, partial disability; 3 or more personnel hospitalized in a single occurrence
- **Class C:** Damage between \$50k - \$500k; injury/occupational illness resulting in loss of one day of work beyond the day of injury/illness
- **Class D:** Damage between \$2k - \$50k; injury/occupational illness resulting in restricted work, transfer, medical treatment greater than first aid
- **Class E Aviation Accident:** An accident in which the resulting total cost of property damage is less than \$2k
- **Class F Aviation Incident:** Aircraft turbine engine damage because of unavoidable internal or external foreign object damage, where that is the only damage

- Classes of accidents are used to determine the type of reporting and investigation requirements are involved with a particular accident.
- The definitions of accident classes were changed in the 14 June 2010 Rapid Action Revision to AR 385-10. The changes included raising the damage thresholds and removing accidents involving Army missiles from the definition of Class A accidents.

Note: Show Slide 23

Accident Investigations

- **Two Types**
 - **Safety Accident Investigation**
 - IAW AR 385-10
 - Boards convened by GCMCA; Cdr, USARC (USAR); State Adjutant General (ARNG) for serious incidents
 - **Legal Accident Investigation**
 - IAW AR 385-10 and other regulations
 - Serious incident investigations convened by GCMCA due to the nature of the event

• There are two types of accident investigations – safety investigations and legal investigations. Whenever there is a reportable accident, a safety investigation must be conducted. This investigation's sole purpose is to find out how the accident occurred in order to prevent future accidents. The type of accident will determine the extent of the investigation.

• Safety accident investigations are conducted either very formally by a board or rather informally by a single investigating officer, typically, the unit safety officer. The most serious of accidents are investigated by a multi-member board either consisting of local personnel or personnel sent from the US Army Combat Readiness/safety Center at Fort Rucker, Alabama.

- Boards (at least 3 members)
 - All on-duty Class A and B accidents
 - Any accident that the appointing authority believes may involve potential hazard serious enough to require a board
- Boards (at least 1 member)
 - Class C aircraft accidents
- Investigations (1 IO)
 - All off-duty military accidents
 - Class C and D ground accidents
 - All aircraft Class D, E, and F accidents/incidents

Note: Show Slide 24

Legal Accident Investigations

- AR 15-6, AR 600-34, AR 385-10
- Required for
 - All Class A accidents, to include cases of friendly fire
 - As directed by the SJA IAW the claims regulation
 - On accidents where there is a potential claim or litigation for or against the government or government contractor
 - On accidents with a high degree of public interest or anticipated disciplinary or adverse administrative action
- **Used to obtain and preserve all available evidence for use in litigation, claims, disciplinary action, or adverse administrative action**

• Collateral to the safety accident investigation is a legal accident investigation (previously known as the collateral investigation) into the same incident that the commander will have conducted. The legal investigation is vital to maintain privileges and protections afforded safety investigative reports. They serve as the source for the information when requested under FOIA or needed for use in administrative or legal actions against an individual or the Government. Generally, the legal investigation is synonymous with the AR 15-6 investigation.

- Legal accident investigations are required:
 - for all Class A accidents, to include cases of friendly fire;

- as directed by the SJA IAW the claims regulation (AR 27-20);
- for accidents where there is a potential claim or litigation for or against the government or government contractor; and
- for accidents with a high degree of public interest or anticipated disciplinary or adverse administrative action against any individual.

Check on Learning: None.

Review Summary: None.

CHECK ON LEARNING (ELO H): None.

REVIEW SUMMARY(ELO H): None.

I. ENABLING LEARNING OBJECTIVE

ACTION:	Priority and Sharing
CONDITIONS:	In a classroom environment learn Priority and Sharing process
STANDARDS:	You must comprehend/understand Priority and Sharing IAW the proper regulation

ELO I - LSA 1. Learning Step / Activity ELO I - LSA 1. Priority and Sharing

Method of Instruction: Briefing

Instr Type(I:S Ratio/Qty): 27A(/0)

Time of Instruction: 0 hrs 10 mins

Instructional Strategy: Lecture

Media Type: PowerPoint Presentation

Security Classification: This course/lesson will present information that has a Security Classification of: U - Unclassified.

Note: Show Slide 25

Priority and Sharing

- Priority: Criminal (CID), safety, legal (AR 15-6)
- Safety can access the criminal and legal
- Safety investigations will not be enclosed in any other report (not shared)
- But, can share common-source documents, photographs, and those documents (other than witness statements) containing purely factual information

- Only factual information may be made available to the legal investigation from the safety investigation. Witness statements are not releasable, only witness lists. Expert conclusions are not releasable. The close hold/confidential nature of witness statement obtained by safety IOs is intended to encourage the maximum degree of candor possible on the part of witnesses, which in turn supports the goal of minimizing future accidents.

- On the other hand, however, all information obtained during the collateral investigation may be released to the safety investigation.

- The accident investigation can share factual information with CID as always, but not the confidential witness statements.

Note: Show Slide 26

Army Regulation 600-34 Family Presentation

- Purpose of the presentation is to provide results of fatal accident investigations and confirmed cases of suicide to the next of kin
- Must be conducted within 30 days after completion of investigation
- Conducted by an O6 in chain of command
 - Chaplain, Casualty Assistance Officer
 - Others as needed (PAO, SJA, Medical, Interpreter)

• Probably the most critical use of the legal investigation is to brief the family of deceased Soldiers who are entitled to family briefings. The purpose of a family briefing is to provide a thorough explanation of releasable investigative results of fatal training/operational accidents to the primary next of kin; ensure that the family fully understands the circumstances of the accident; ensure the family is reassured of the concern regarding the tragedy and is aware of the compassion of Army leaders.

• These briefings are required for families of Soldiers killed by:

• **Fatal Training Accidents** Accidents associated with non-combat military exercises or training activities designed to develop a soldier's physical ability or to maintain or increase individual/collective combat and/or peacekeeping skills

• **Fatal Operational Accidents** Accidents associated with active duty military exercises or activities occurring in a designated war zone or toward designated missions related to current war operations or MOOTW contributing directly or indirectly to the death

• **Special interest cases** or cases in which there is a high public interest

• **Suicides** Army Directive 2010-01, published on 26 March 2010, implements a requirement that Suicide Incident Family Presentations be offered to NOK of Soldiers who are confirmed to have died of suicide. These presentations utilize the same format and procedures as those detailed in AR 600-34.

• The family presentation requirement stems from a 1992 Congressional requirement that DoD provide reports of investigations to the next of kin of those service members

who die as the result of training or operational accidents. The Army implements this requirement in AR 600-34 and takes the requirement one step further by offering a face-to-face presentation to the next of kin on the results of the AR 15-6 investigation into a fatal training or operational accident (this includes friendly fire fatalities).

- Offer is made within 24 hours after investigation is approved, must be conducted within 30 days.
- The deceased Soldier's chain of command is responsible for providing this presentation to the next of kin. The regulation prefers that the brigade commander (an O-6) make this presentation. This is not always possible, however, when the unit is deployed, so the duty normally falls upon the rear detachment.
- SJA should attend if family will have legal representative attend briefing. PAO if a reporter will be present. Also must bring interpreter (language/sign language) if necessary or medical experts if complex.

Note: Show Slide 27

AR 600-8-4 Line of Duty Determination/Investigation

- Line of duty determination required when service is interrupted by injury, disease, or death
- Purpose is to protect the interest of the individual and the United States

- The function of an AR 600-8-4 Line Of Duty Investigation is to determine the duty status of Soldiers who die or sustain certain injuries, diseases, or illnesses, and to determine whether such death, injury, disease, or illness occurred in the line of duty.

Note: Show Slide 28

graphic not found for sequence #:28

- There are three possible determinations.
- In line of duty: Example - Soldier injured in car crash caused by another driver's negligence.
- Not in line of duty – Not due to own misconduct: Example - Soldier AWOL, injured in car crash caused by another driver's negligence.
- Not in line of duty – Due to own misconduct: Example - Soldier gets drunk at a party and attempts to drive home but is in an accident.
- The ultimate determination can have significant impacts on the Soldier and his family.

Note: Show Slide 29

Three Possible Outcomes (and consequences)

- In line of duty
 - May receive - Army Disability Retirement, Separation Compensation, DVA Compensation & Hospitalization, Incapacitation Pay (USAR & ARNG)
- Not in line of duty – Not due to own misconduct
 - May lose - disability retirement, separation compensation, DVA disability or hospitalization, civil service preference
- Not in line of duty – Due to own misconduct
 - Must make up lost days, lost days excluded from longevity and retirement pay computations, forfeit pay (for days lost due to disease resulting from intemperate use of drugs/alcohol), loss of disability retirement and severance pay, loss of DVA benefits
- The analysis is straightforward.
 - Did the Soldier's misconduct proximately cause the injury, illness, or death?
 - Injury, illness, or death caused by Soldiers own misconduct can never be in line

of duty.

- Violation of a regulation by itself is not misconduct, it is simple negligence.

Regulatory violations should be considered in the analysis, however.

- What was the Soldier's status?

• Duty status refers to an authorized duty status – on leave, on pass, present for duty, versus unauthorized status – AWOL, deserter, DFR. It does not refer to worker's compensation or claim's theories of "performing military duties" or "job-related."

Check on Learning: None.

Review Summary: None.

CHECK ON LEARNING (ELO I): None.

REVIEW SUMMARY(ELO I): None.

J. ENABLING LEARNING OBJECTIVE

ACTION:	Presumptions
CONDITIONS:	In a classroom environment learn the Presumption process
STANDARDS:	You must comprehend/understand Presumptions IAW the proper regulation

ELO J - LSA 1. Learning Step / Activity ELO J - LSA 1. Presumptions

Method of Instruction: Briefing

Instr Type(I:S Ratio/Qty): 27A(/0)

Time of Instruction: 0 hrs 5 mins

Instructional Strategy: Lecture

Media Type: PowerPoint Presentation

Security Classification: This course/lesson will present information that has a Security Classification of: U - Unclassified.

Note: Show Slide 30

Presumptions

- Presume ILD without investigation:
 - Disease (exceptions)
 - Enemy action or terrorist attack
 - Death from natural causes
 - Death as passenger on common commercial carrier or military aircraft
 - Superficial injuries with no lasting significance

- When a line of duty determination must be made, there are three possible ways to do so: Rely upon a presumption, or an informal or formal investigation.

Check on Learning: None.

Review Summary: None.

CHECK ON LEARNING (ELO J): None.

REVIEW SUMMARY(ELO J): None.

K. ENABLING LEARNING OBJECTIVE

ACTION:	Investigations
CONDITIONS:	In a classroom environment learn the types of Investigations
STANDARDS:	You must comprehend/understand Investigations IAW the proper regulation

ELO K - LSA 1. Learning Step / Activity ELO K - LSA 1. Informal Investigation

Method of Instruction: Briefing

Instr Type(I:S Ratio/Qty): 27A(/0)

Time of Instruction: 0 hrs 10 mins

Instructional Strategy: Lecture

Media Type: PowerPoint Presentation

Security Classification: This course/lesson will present information that has a Security Classification of: U - Unclassified.

Note: Show Slide 31

Informal Investigation

- **Informal:** Company commander performs and signs **DA Form 2173** and provides to appointing/approving authority
 - No misconduct or negligence suspected
 - Medical Treatment Facility (MTF) rep and commander sign a DA Form 2173
 - Appointing/Approving authority: Special Court-Martial Convening Authority
 - Can only result in a finding of ILD (except when medical doctor finds condition existed prior to service –EPTS)

• When an investigation is required, the commander has two choices, informal or formal.

• With an informal investigation, the commander gathers the evidence and submits the investigation. Note that the only findings he can make are in the line of duty.

• **Informal Investigation by the Unit Commander when:**

- No misconduct suspected.
- No negligence is suspected.
- Formal investigation is not required.

• At a minimum, the MTF representative and commander must sign a DA Form 2173. Supporting exhibits should be attached.

• SPCMCA is appointing and approving authority. SPCMCA should approve informal investigation in writing “By Authority of the Secretary of the Army.”

KEY: Informal investigation can only result in an ILD determination (except when medical doctor finds condition existed prior to service –EPTS). In the event a doctor finds the condition to be EPTS, the determination will be not in line of duty – not due to own misconduct.

Check on Learning: None.

Review Summary: None.

Method of Instruction: Briefing
Instr Type(I:S Ratio/Qty): 27A(/0)
Time of Instruction: 0 hrs 10 mins
Instructional Strategy: Lecture
Media Type: PowerPoint Presentation
Security Classification: This course/lesson will present information that has a
Security Classification of: U - Unclassified.

Note: Show Slide 32

Formal Investigation

- **Formal:** IO appointed, findings and recommendations on **DD Form 261**
 - Strange or doubtful circumstances
 - Injury or death involving drugs or alcohol abuse
 - Self-inflicted injuries/Suicide
 - Injury/death while AWOL
 - Appointing authority: Special Court-Martial Convening Authority
 - Approving authority: General Court-Martial Convening Authority

• A formal investigation provides more due process to the Soldier and has more requirements.

• Key differences: More typical investigation, respondent given an opportunity to respond, appointing and approving authority both review

• **Formal Investigation.** Appointing Authority (SPCMCA) must conduct a formal Investigation through an Investigating Officer (IO) when any of the following factors are present:

- Strange or doubtful circumstances.
- Injury or death involving alcohol or drug abuse.
- Self-inflicted injuries or suicide.
- Injury or death incurred while AWOL.
- Training death of a USAR/ARNG Soldier.
- Injury or death of a USAR or ARNG member while traveling to or from authorized

training or duty.

- Injury or death occurring while en route to final acceptance in the Army.
- USAR/ARNG Soldier serving active duty tour of 30 days or less disabled by disease.
- In connection with an appeal of an unfavorable finding of alcohol or drug abuse.
- A valid request for formal investigation made (e.g., requested by the Physical Disability Agency).

• Since there is more potentially at stake at a formal investigation, the GCMCA is the approving official.

• In cases of suspected suicide, keep in mind that a formal LOD investigation is required by regulation, and that a legal (*i.e., AR 15-6*) investigation is also required, pursuant to AR 600-63, Army Health Promotion, RAR 20 Sep 09).

Note: Show Slide 33

Formal Investigation (cont.)

- Soldier presumed in line of duty
- Contrary finding must be rebutted by substantial evidence, under a preponderance standard
- Soldier not required to make a statement against interest
- Soldier afforded notice and opportunity to rebut adverse findings
- Legal review for all formal investigations

• Soldiers have a statutory right not to make a statement concerning origin of disease, illness, or injury. 10 U.S.C. Section 1219

Check on Learning: None.

Review Summary: None.

CHECK ON LEARNING (ELO K): None.

REVIEW SUMMARY(ELO K): None.

L. ENABLING LEARNING OBJECTIVE

ACTION:	Financial Liability Investigation
CONDITIONS:	In a classroom environment learn the process of a FLIPL.
STANDARDS:	You must comprehend/understand (FLIPL's) IAW the proper regulation

ELO L - LSA 1. Learning Step / Activity ELO L - LSA 1. Purpose of a FLIPL

Method of Instruction: Briefing
Instr Type(I:S Ratio/Qty): 27A(/0)*
Time of Instruction: 0 hrs 10 mins
Instructional Strategy: Lecture
Media Type: PowerPoint Presentation
Security Classification: This course/lesson will present information that has a
Security Classification of: U - Unclassified.
Note: Marked as (*) is derived from the parent learning object

Note: Show Slide 34

Financial Liability Investigations of Property Loss (FLIPL) (AR 735-5 / DA Pam 735-5)

Purpose of a FLIPL

1. Document the circumstances surrounding the loss, damage or destruction of Government property
2. Serve as voucher (documentation) allowing for the adjustment of property books
3. Document a charge or relief from financial liability

4. Commanders' tool to enforce property accountability
5. It is not punishment (Commanders can, however, punish Soldiers for LDD of property if it involves UCMJ offense or can use other administrative remedies)
There are alternatives to FLIPLs, statement of charges, cash sale, damage statement, abandonment order. Don't need to do a FLIPL for every piece of property.
Note: Show Slide 35

FLIPL

- Mandatory FLIPL
- Initiating the FLIPL
- Short FLIPL

• Mandatory FLIPL where LDD of Government property and, Negligence/willful misconduct and individual does not admit liability, There is a change to of accountable officer's inventory and outgoing accountable officer does not voluntarily reimburse, Value of LDD exceeds individual's monthly basic pay, LDD involves controlled item (mandatory AR 15-6) (Classified item, Sensitive Item, Pilferable Item), or LDD from fire, theft, or natural disaster; LDD is item with certain recoverability codes; Bulk petroleum over \$500; public funds or negotiable instruments.

- Initiating FLIPL -initiator conducts a preliminary inquiry to try to locate property and determine basic facts of the LDD. This is done on the DD200. Appointing/approving authority can then decide whether to appoint a financial liability officer or conduct a short FLJPL.

- A short FLIPL is an excellent tool for the approving authority. Much flexibility.

Allows--

Approving authority to relieve all individuals from liability when initial information indicates no negligence involved Approving authority to assess financial liability without further investigation if initial investigation indicates negligence or willful misconduct

was the proximate cause of LDD of Government property -7 Must provide Soldier with notice and opportunity to respond. Can never just take money from Soldiers without allowing them the opportunity to present their side of the case.

Note: Show Slide 36

Conducting the FLIPL Investigation

- Financial Liability Officer (FLO)
 - Senior to person investigated
 - Commissioned officer, warrant officer, SFC or above, GS-7 or above
- Investigation
 - Mandatory briefing
 - Thorough and impartial

Financial Liability Officer (FLO):

Senior to person subject to possible liability

Commissioned officer, warrant officer, SFC or above, GS-7 or above

The FLO:

Mandatory briefing: The regulation requires a mandatory briefing before the FLO begins. The regulation is silent as to who gives this briefing. There should be a unit SOP on who briefs the FLO. Normally the S4 or the CJA/AD Law Atty.

Investigation: Investigation must be thorough and impartial. There are specific requirements just like AR 15-6. Findings and recommendations must be supported by a preponderance of the evidence. Contradictory statements must be resolved by the FLO or an explanation included on how the FLO resolved the contradiction in his or her findings. Self serving statements must be supported by other evidence.

Investigation must identify the what, how, where, who, when, any negligence or willful misconduct.

Note: Show Slide 37

Liability

- Loss
- Responsibility
- Culpability
- Proximate cause

The FLO:

Mandatory briefing: The regulation requires a mandatory briefing before the FLO begins. The regulation is silent as to who gives this briefing. There should be a unit SOP on who briefs the FLO. Normally the S4 or the CJA/AD Law Atty.

Investigation: Investigation must be thorough and impartial. There are specific requirements just like AR 15-6. Findings and recommendations must be supported by a preponderance of the evidence. Contradictory statements must be resolved by the FLO or an explanation included on how the FLO resolved the contradiction in his or her findings. Self serving statements must be supported by other evidence.

Investigation must identify the what, how, where, who, when, any negligence or willful misconduct.

Note: Show Slide 38

Approving Authority

- LDD less than \$100,000: first O-6 or GS-15 in the rating chain
- LDD of \$100,000 or more or loss of controlled item: first General Officer or SES in the rating chain.

No Instructor notes

Note Show Slide 39

Additional Issues

- Suspension of Favorable Personnel Actions (Flags) (AR 600-8-2)
 - “Suspension of favorable personnel actions is mandatory when an investigation (formal or informal) is initiated on a soldier by military or civilian authorities.”

Suspension of Favorable Personnel Actions, or FLAGS is another area of concern. AR 600-8-2 requires an action to FLAG an individual's records when that individual is

under investigation. This prevents any favorable personnel actions from occurring during the pendency of the investigation. Promotion, attendance at Army or military schools, awards, etc. are put on hold until the matter is resolved. This was the subject of an IG investigation in 2011 where it was found that the Army is doing a poor job of flagging individuals who are the subject of investigations.

Note: Show Slide 40

Questions?

No Instructor notes

Check on Learning: None.

Review Summary: None.

CHECK ON LEARNING (ELO L): None.

REVIEW SUMMARY(ELO L): None.

SECTION IV. SUMMARY

Method of Instruction:	Briefing
Instr Type(I:S Ratio/Qty):	27A (null:null/0)*
Time of Instruction:	10 mins
Instructional Strategy:	Lecture

Note: Marked as (*) is derived from the parent learning object

Check on Learning

None.

Review/ Summary

None.

SECTION V. STUDENT EVALUATION

Testing Requirements

NOTE: Describe how the student must demonstrate the accomplishment of the TLO. Refer student to the Student Evaluation Plan.

Feedback Requirements

NOTE: Feedback is essential to effective learning. Schedule and provide feedback on the evaluation and any information to help answer students questions about the test. Provide remedial training as needed.

Appendix A - Viewgraph Masters

Administrative Investigations 181-CCFS-C16 / Version 3

Sequence	Media Name	Media Type
None		

Appendix B - Test(s) and Test Solution(s)

Appendix C - Practical Exercises and Solutions

PRACTICAL EXERCISE(S)/SOLUTION(S) FOR LESSON 181-CCFS-C16 Version 3

Appendix D - Student Handouts

Administrative Investigations 181-CCFS-C16 / Version 3

Sequence	Media Name	Media Type
0	Complete Presentation	PPTX